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US EPA RECORDS CENTER REGION 5



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Stephen B. Cherry
Direct Dial (317) 684-5105**RECEIVED DEC 23 1996**

December 20, 1996

Mr. Robert Lamprecht
Mr. William Burns
Northwest Regional Office/Gary
Indiana Department of Environmental Management
504 Broadway
Gary, Indiana 46402

Re: September 25, 1996 Compliance Inspection Summary
Gary Development Company, Inc.
Our File No.: 9273-1

Dear Mr. Lamprecht and Mr. Burns:

On December 19, 1996, we received, on behalf of our client Gary Development Company, Inc. ("GDC"), an Inspection Summary ("Summary") for your September 25, 1996 inspection. In our review of the Summary, we noted several inaccuracies and statements which warrant clarification. As a result, we feel compelled to respond to the Summary.

To begin with, it is important to note that, since the inspection in September, GDC received no information whatsoever as to the inspection results December 19, 1996. Thus, GDC was unaware of any concerns that the Indiana Department of Environmental Management ("IDEM") had pertaining to that inspection and had no opportunity to respond to those concerns for nearly three months.

In addition to the timing of the Summary, various substantive issues are raised by that document. One such issue concerns "open dumping." Open dumping does indeed occur near the GDC facility. However, as the Summary states, GDC has "a constant problem with unknowns dumping garbage and etc. outside the landfill gate." (emphasis added). Although Gary Development pays for security personnel and has guard dogs on the property, trash is still dumped virtually continuously outside GDC's gates. In fact, on some occasions, there is so much trash blocking the gates that Mr. Hagen cannot enter the property without first moving the trash. Mr. Hagen has made numerous attempts to get either the City of Gary or the City of

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East Chicago to remove the trash, but to no avail. In short, rather than allowing open dumping to occur or being the cause of open dumping at or near the GDC facility, GDC simply attempts to deal with a situation that is completely beyond its control. It should be noted that the only suggestion offered to date by IDEM for dealing with this situation is to push the trash aside until it piles up and falls over into the street. GDC does not consider such an alternative to be appropriate or acceptable.

As you know, Gary Development is no longer an active landfill and is no longer accepting waste. The landfill has been closed for seven years. Mr. Hagen's role has been to maintain the landfill. This explains the appearance of heavy equipment, such as a generator, on the property. In addition, while there are certainly mountains of "auto fluff" dumped throughout the City of Gary, Gary Development never accepted that material. The reference to "auto fluff" in the Summary indicates either a mistake by IDEM as to the material allegedly observed or confusion as to the facility being inspected. Regarding the "medical waste" allegedly found at the site, it can be stated without reservation that such material was never knowingly accepted at the Gary facility by GDC. If such material was indeed observed on site by the IDEM inspectors, it was transported to the site without the knowledge or consent of GDC management.

The Summary suggests that GDC must address the erosion problems on the landfill. As part of its routine closure activities, GDC has and will continue to diligently address the potential for erosion. GDC has covered the landfill with over three feet of clay, well exceeding the regulations. There is no exposed waste. Further, GDC has spent literally thousands of dollars on seed and vegetation in an effort to maintain the stability of the landfill cover. Significantly, in the one area where IDEM could provide valuable assistance to GDC -- granting permission to use municipal sewage sludge to fertilize the landfill cover -- IDEM has failed to provide such assistance.

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The Summary notes that Mr. Hagen asked for copies of all photographs and sample results, but to date none have been received. Moreover, although the Summary states that "this inspection report will be mailed to Attorney Stephen Cherry upon completion," the Summary was not sent certified mail until December 17, 1996.

We are aware of IDEM's concerns regarding the GDC facility and are willing to work closely with IDEM personnel to address those concerns. However, GDC feels quite strongly that it is important that those concerns be expressed accurately and fairly. If you have any questions regarding our response to the September 26, 1996 Inspection Summary, please feel free to contact me.

Sincerely,

BOSE MCKINNEY & EVANS



Stephen B. Cherry

SBC:ln

cc: William Nanini
Larry Hagen, Jr.
Mike Mikulka
Lisa McKinney Goldner

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